HON'BLE Ms. JUSTICE G. ROHINI

Dated 15th Day of June, 2007

W.P.No.11356 OF 2007

Between:

E. Srinivas and another ..
Petitioners

And

The Commissioner of Endowments,
Tilak Road, Abids, Hyderabad
and another ..
Respondents

O R D E R:

The writ petitioners were granted lease in respect of premises bearing No.2-6-120 and 2-6-120/1 respectively belonging to Sri Sangameswara Swamy Temple at Sadasivpet. It is not in dispute that the lease in their favour expired long back. Since the petitioners failed to handover the vacant possession of the premises, the 2nd respondent-Executive Officer of the Temple, filed O.A.Nos.12 and 13 of 1999 before the Deputy Commissioner of Endowments, Hyderabad under Section 83 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act") seeking eviction of the petitioners. The Deputy Commissioner of Endowments, after due enquiry, by an order dated 20.11.1999, declared the petitioners as encroachers and ordered them to handover the vacant physical possession to the Executive Officer within a period of 15 days, failing which, action will be taken under Section 84 of the Act. Aggrieved by the said order, the petitioners preferred a Revision Petition in R.P.No.83 of 1999 before the Regional Joint Commissioner of Endowments who, after hearing both the parties, dismissed it by an order dated 9.8.2000 confirming the order of eviction dated 20.11.1999. It is not in dispute that the said order has become final.

However, the petitioners claim to have filed an application dated 24-11-2000 under Section 89 of the Act before the 1st respondent-Commissioner of Endowments requesting to compromise

the matter expressing their willingness to pay the rents in future properly and also to enhance the rents by 30% by clearing all the arrears if any. It is claimed that the 1st respondent, having entertained their representation, accepted their request and accordingly the 2nd respondent has been receiving the rents from them under proper receipts. While so, the 2nd respondent issued the Eviction Notices dated 30.5.2007 calling upon the petitioners to vacate the premises in their possession within three days failing which appropriate action would be taken in accordance with law. Questioning the action of the 2nd respondent in issuing the eviction notices dated 30.5.2007, which were served on the petitioners by affixture at the premises in question, the present writ petition is filed.

Heard the learned counsel for both the parties and perused the material placed on record.

The learned counsel for the petitioners has vehemently contended that since the petition made by the petitioners under Section 89 of the Act is pending with the 1st respondent, it must be deemed that their request for compromise is accepted permitting them to continue in the schedule premises subject to condition that they will not commit any default in payment of rents. It is also contended that since admittedly, the 2nd respondent has been receiving the rents from the petitioners even after the dismissal of the Revision Petition by the Regional Joint Commissioner, the petitioners have acquired a right to continue in the premises in question and it is not open to the 2nd respondent to order eviction without any notice.

In the counter affidavit filed by the 2nd respondent it is stated that the 2nd respondent is not aware of the petition said to have been

filed before the 1st respondent under Section 89 of the Act. At any rate, the 1st respondent has not passed any orders either accepting the compromise proposed by the petitioners or granting stay of eviction of the petitioners from the premises in question. Hence, the 2nd respondent has rightly issued the impugned notices for recovery of the possession from the petitioners.

It is to be noted that Section 89(2) of the Act empowers the Commissioner of Endowments to pass an order directing the trustee or other person in-charge of the management of charitable or religious institution to enter into a compromise where he considers that any claim, demand or cause of action for suing in respect of the properties of the institution shall be compromised in the interest of the institution without instituting any suit or legal proceeding and where the other party to such suit or other legal proceedings is willing to enter into a compromise.

It is a discretion conferred on the Commissioner to take an appropriate decision in the interest of the institution or endowment to compromise the matter without instituting legal proceedings.

In the case on hand, admittedly, the legal proceedings initiated against the petitioners ended in favour of the 2nd respondent in the year 1999 itself and the order passed by the Regional Joint Commissioner has become final. Therefore, even assuming that the petitioners came up with certain proposals for compromise thereafter in the year 2000, the same do not come within the scope of Section 89 of the Act.

Hence, the contention of the petitioners that they acquired a right to continue in possession of the premises in question is

misconceived and cannot be accepted.

The petitioners are bound by the orders of eviction which have became final and the impugned consequential notices calling upon them to hand over vacant possession do not suffer from any infirmity.

Accordingly, the writ petition is dismissed. However the petitioners are granted seven days time from today to vacate the premises in question.

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G. ROHINI, J.

Dt. 15-6-2007

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Note:- Copy by tomorrow.